

EXHIBIT I

To: Larry Crown

Michael K. Jeanes, Clerk of Court

*** Filed ***

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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2002-004988

03/04/2009

HONORABLE JOHN A. BUTTRICK

CLERK OF THE COURT

C. Castro

Deputy

ROBERT J SWANSTON

HARRY J MILLER III

v.

TAP PHARMACEUTICAL PRODUCTS INC, et
al.

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RULING

On February 10, 2009, oral argument was held on Plaintiff's Proposed Order Dismissing Certain Overlapping Claims without Prejudice (filed August 15, 2008). The matter was taken under advisement at that time.

This putative class action was filed in 2002. Discovery is presently stayed and a number of motions are pending. The first matter to be addressed concerns what parties, claims and drugs are still at issue. The relevant pleading is the Second Amended Complaint ("SAC"), filed December 20, 2002. There is no pending motion to amend and, in fact, no desire to amend has been expressed by Plaintiff.

The current dispute regarding dismissal of claims arises from an order entered in a pending federal multi-district litigation, In re Pharmaceutical Industry Average Wholesale Price Litigation, No. 01-12257-PBS, MDL 1456 (D. Mass.) (the "MDL" case). Some defendants in this case are also defendants in the MDL proceedings. On September 11, 2007, in the MDL case, Judge Patti B. Saris ordered Plaintiff's counsel to dismiss all overlapping claims and defendants in a parallel New Jersey state court case. That was accomplished by an agreed upon order in the New Jersey proceeding.

Things have not gone as smoothly in this Court. The parties agree only that Judge Saris' order should be applied in this action as it was in New Jersey. They disagree regarding not only what claims and parties should be dismissed but also as to what claims and what drugs are within the scope of the SAC. In other words, they can agree neither as to what is presently "in" the case nor what should be taken "out" of the case.

Adding to the confusion is the unusual procedural setting here. On March 19, 2008, Judge Barton ordered the parties to prepare a "joint" proposed order of dismissal that would dismiss without prejudice "all claims in this litigation that either have been certified as class claims or are pending class certification in the MDL." If a joint order proved impossible, Judge Barton allowed for competing orders to be lodged.

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Subsequently, on August 8, 2008, Judge Swann ordered that a revised form of order be submitted by Plaintiff addressing solely the elimination of parties, claims and drugs "by virtue of Judge Saris' order." Additionally, Judge Swann mandated that Plaintiff make a formal disclosure regarding "what it believes remains in the case."

In response to Judge Swann's order, the parties briefed the issue of what is "out" and "in" the case and, as noted, presented their differing views at oral argument on February 10, 2009.

The Court has reviewed the briefing and the proposed forms of order submitted and now rules on the pending issue of dismissal of parties, claims and drugs.

Certain defendants in the MDL case are also defendants in this case (collectively "the Overlapping Defendants"). The Overlapping Defendants consist of the following defendants in Track One of the MDL case (the "Track One Overlapping Defendants"): Zeneca Inc.; AstraZeneca Pharmaceuticals LP; AstraZeneca LP; Bristol-Myers Squibb Co.; Oncology Therapeutics Network Corp.; Apothecon, Inc.; Johnson & Johnson; Centocor, Inc.; Ortho Biotech Products, L.P.; Schering-Plough Corporation; Schering Corporation; and Warrick Pharmaceuticals Corporation. The Overlapping Defendants also consist of the following defendants in Track Two of the MDL case (the "Track Two Overlapping Defendants"): Abbott Laboratories; Amgen, Inc.; Aventis Pharmaceuticals Inc.; Hoechst Marion Roussel, Inc.; ZLP Behring, L.L.C. (f/k/a Aventis Behring L.L.C.); Baxter International Inc.; Baxter Healthcare Corporation; Bayer Corporation; Dey, Inc.; Fujisawa Healthcare, Inc.; Fujisawa USA, Inc.; Immunex Corporation; Pharmacia Corporation; Pharmacia & Upjohn LLC, f/k/a Pharmacia & Upjohn, Inc.; Monsanto Company; Sicor, Inc.; Gensia, Inc.; and Gensia Sicor Pharmaceuticals, Inc.

There exist claims in this case against the Overlapping Defendants that overlap with class claims in the MDL case ("the Overlapping Claims"). The Overlapping Claims consist of the following claims in this case: Unjust Enrichment (Count I of the SAC); Common Law Fraud (Count II of the SAC); Civil Conspiracy (Count III of the SAC); Concert of Action (Count IV of the SAC); Aiding/Abetting (Count V of the SAC); and Consumer Fraud pursuant to Ariz. Rev. Stat. §44-1521, *et seq.* (Count VI of the SAC).

The Overlapping Drugs are set forth in Exhibits "A" and "B" appended to Plaintiff's Proposed Order Dismissing Certain Overlapping Claims Without Prejudice, filed August 15, 2009 ("the Overlapping Drugs").

To eliminate the Overlapping Claims against Overlapping Defendants with respect to Overlapping Drugs;

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IT IS HEREBY ORDERED that all claims against the Track One Overlapping Defendants with respect to the Overlapping Drugs shall be dismissed without prejudice.

IT IS FURTHER ORDERED that all claims against the Track Two Overlapping Defendants with respect to Overlapping Drugs shall be dismissed without prejudice.

IT IS FURTHER ORDERED that all claims against the Track One Overlapping Defendants with respect to Self-Administered Drugs shall be dismissed without prejudice.

IT IS FURTHER ORDERED that the following Track Two Overlapping Defendants shall be dismissed without prejudice: Abbott Laboratories; Abbott Laboratories, Inc.; Amgen Inc.; Aventis Pharmaceuticals, Inc.; Hoeschst Marion Rousell, Inc.; ZLB Behring L.L.C. (f/k/a Aventis Behring, L.L.C.); Immunex Corporation; Pharmacia Corporation; Pharmacia & Upjohn, LLC f/k/a Pharmacia & Upjohn, Inc.; Pharmacia & Upjohn Company, LLC; The Upjohn Company; Adria Labs; Monsanto Company; and G.D. Searle.

IT IS FURTHER ORDERED that all claims by Third-Party Payor Members of the putative class against the following Track Two Overlapping Defendants shall be dismissed without prejudice: Baxter International Inc.; Baxter Healthcare Corporation; Bayer Corporation; Dey, Inc.; Fujisawa Healthcare, Inc.; Fujisawa USA, Inc.; Sicor, Inc. (f/k/a Gensia Sicor Pharmaceuticals, Inc., f/k/a Gensia, Inc.).

IT IS FURTHER ORDERED that all claims against the following defendants (who are not Overlapping Defendants in the MDL case) are dismissed in their entirety, without prejudice: Ethicon Endo-Surgery; Indigo Medical, Inc.; Christopher Coleman; Michael T. Gendelman; Eddy James Hack; Scott Hidalgo; and David Jett.

IT IS FURTHER ORDERED that the above dismissals are with the express understanding that the statute of limitations with respect to such claims is tolled until such time as they have either been decertified as class claims in the MDL case or the MDL case has concluded.

IT IS FURTHER ORDERED modifying the schedule set forth in this Court's January 26, 2009 minute entry order as follows:

1. The April 1, 2009 oral argument shall be on Plaintiff's Supplemental Disclosure Statement, filed September 15, 2008, and Defendants' Motion to Strike, filed October 15, 2008.

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2. The May 7, 2009 hearing shall be composed of oral argument on Plaintiff's Motion for Class Certification, filed December 20, 2002, and the setting of future dates for resolution of Defendants' Motion for Summary Judgment, filed August 6, 2008; Defendant Immunex's Motion for Summary Judgment, filed October 15, 2008, and Comprehensive Pre-Trial Conference.

Dated this 4th day of March, 2009.

/ s / HON. JOHN A. BUTTRICK

JUDICIAL OFFICER OF THE SUPERIOR COURT